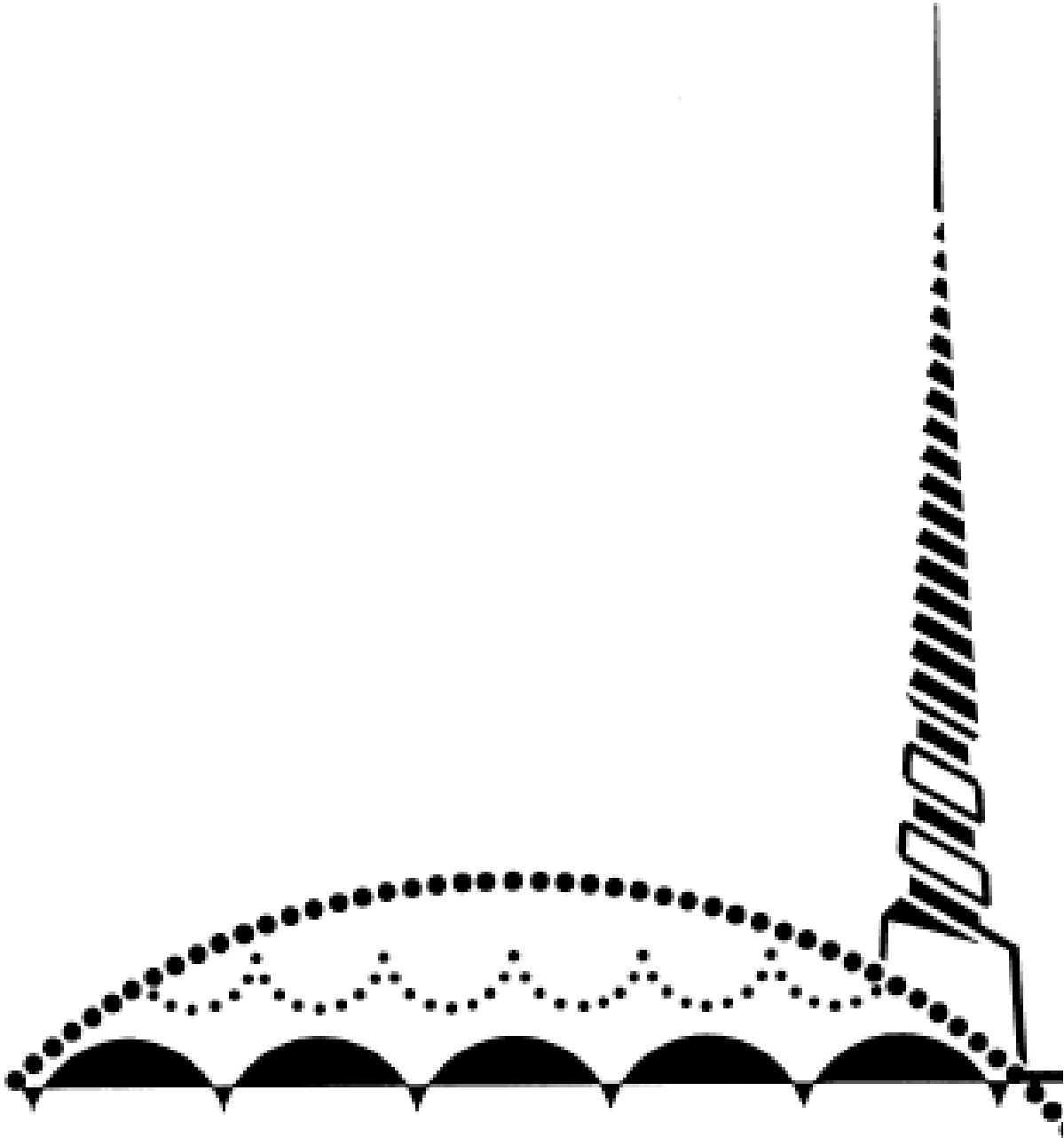


2007-2008 MARIN COUNTY CIVIL GRAND JURY

**Location, Location, Location:
Marin's Emergency Operations Facility**

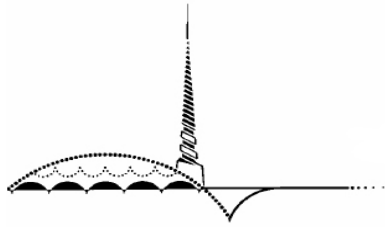
Date of Report: April 14, 2008



ERRATUM

in the 2007-2008 Grand Jury Report dated **April 14, 2008, Location, Location, Location: Marin's Emergency Operations Facility.**

The 7.26-acre site described in this Report includes both Site 2 and Site 3 as shown in Appendix A of the Report. Site 3 includes the east parking lot and does not include the Armory property leased to the State of California.



SUMMARY

Public controversy and misconceptions abound regarding Marin County's plan to construct a new Emergency Operations Facility (EOF). The EOF is needed to fulfill California's strict "essential services" building requirements, and would also respond to Grand Jury recommendations from three past reports. The 2007-2008 Grand Jury reviewed the public process that resulted in the selection of an EOF construction site on the east side of Civic Center Drive, where a temporary dog park and petanque courts are currently located (the 7.26-acre site).

Some members of the Santa Venetia neighborhood adjacent to the selected site vigorously object to construction of the EOF there. A volunteer group calling itself the Marin Civic Center Vision Committee (the Committee) alleges that the county's selection of the 7.26-acre site was improper for a variety of reasons. These include neighborhood quality concerns, and that the site decision side-stepped public input as well as land use policies of the Frank Lloyd Wright vision. The Committee is also attempting to stop the planned construction of the EOF by seeking a new initiative (Measure A) to require voter approval for county construction *anywhere* on the Civic Center Campus. The Committee claims that its proposed Measure A is required to protect open space and parklands on the estimated 66 acres of the Civic Center Campus east of Civic Center Drive.

Contrary to the Committee's allegations of county improprieties in this matter, the Grand Jury finds that the various public processes and actions of the Board of Supervisors in selecting the 7.26-acre site and rejecting four other sites for the new EOF are entirely consistent with:

- The exercise of proper due diligence in retaining and relying on the opinions and recommendations of qualified, independent professionals and experts who reviewed and analyzed the five sites.
- Existing policies, plans and recommendations in the approved 1972-1990 Marin County Civic Center Master Plan authored by Frank Lloyd Wright's Taliesen architectural associates (the FLW Master Plan) to complete Frank Lloyd Wright's vision for the Civic Center Campus.
- Appropriate public notice, agenda and open meeting requirements.
- Fulfillment of the Board of Supervisors' legal authority and responsibilities.

The Grand Jury further finds that there is no necessity for an additional ordinance to guarantee the retention of significant parklands and open space on the east side of the Civic Center Campus. The county's expressed intention is to design and construct the EOF on the selected site in accordance with the approved 2005 Civic Center Master Design Guidelines, including design principles of the FLW Master Plan. The FLW Master Plan specifically provides for the construction of a building and two-story parking structure on the 7.26-acre site, along with required protections of adjoining and surrounding recreational areas, open space and parklands throughout the east side of Civic Center Drive.

Therefore, the Grand Jury recommends that the Board of Supervisors, county staff and experts expedite the planning, development, design and construction of the mandated EOF on the 7.26-acre site as one of the county's highest priorities for community public safety.

The Grand Jury further recommends that if the Marin Civic Center Vision Committee's proposed initiative Measure A qualifies for an election ballot, the Board of Supervisors take all appropriate action necessary to ensure the construction of the EOF on the 7.26-acre site to fulfill critical public safety needs. Such action could include development and placement on the same election ballot of a competing initiative to defeat Measure A. This would ensure uninterrupted implementation of the policies and recommendations of the FLW Master Plan.

The Grand Jury also finds that the broad public safety mandate in this matter far outweighs the narrow private interests of a few homeowners. The entire Marin community has been on public notice since at least 1972 that, in accordance with the FLW Master Plan, the county has the legal right and proper intention to build on the 7.26-acre site and in other areas east of Civic Center Drive. The FLW Master Plan calls for integration of buildings with significant protections of parks and open space throughout the Civic Center Campus.

BACKGROUND

Mandated public safety needs vs. private homeowner interests

California's mandate of stricter construction and seismic standards for buildings that contain certain public safety services, defined as "essential services," requires Marin County to construct a new Emergency Operations Facility (EOF) to house its Emergency Operations Center, Office of Emergency Services, Sheriff's Department, and several other public safety and emergency dispatch functions.

To fulfill this mandate, between 2002 and 2008, the Marin County Board of Supervisors commissioned architectural, environmental planning, real estate and other experts to

study, develop and recommend a Civic Center Master Facilities Plan, Civic Center Master Design Guidelines and a location for the new EOF among five alternative sites within the Civic Center Campus. In December 2006, the Board of Supervisors selected the EOF site recommended by those professionals. It is a 7.26-acre parcel on the east side of Civic Center Drive where a temporary dog park and petanque courts are currently located (the 7.26-acre site). The selected site is owned by Marin County and is used as a temporary dog park under a 1998 month-to-month lease to a nonprofit corporation, the San Rafael Dogowners Park Committee.

Some homeowners in the adjacent Santa Venetia neighborhood have come together to vigorously object to the construction of the EOF on the selected 7.26-acre site. A volunteer group calling itself the Marin Civic Center Vision Committee (the Committee) alleges that the Board's selection of the 7.26-acre site was improper for a variety of reasons. These include neighborhood quality concerns, and that the site decision side-stepped public input as well as land use policies of the Frank Lloyd Wright vision. Wright's vision for the Civic Center Campus, of architecture balanced and in harmony with its surrounding open space, has been carried to completion by Wright's architectural associates in the form of their 1972-1990 Marin County Civic Center Master Plan (the FLW Master Plan).

The pivotal issue: Location, location, location

There is no disagreement that Marin County must relocate its emergency operations and public safety functions into a new facility to satisfy California's legally mandated "essential services standards" in construction and operation. However, personal opinions and preferences on the size and location of such a facility vary and have sparked serious controversy between the county and the small but vocal volunteer Committee.

In an effort to halt the county's construction plans, the Committee has filed a petition to qualify an initiative (Measure A) for the November 2008 general election ballot. It would prohibit the county from constructing any building or improvement over 250 square feet anywhere on the Civic Center Campus **east** of Civic Center Drive without prior voter approval. The county is already prohibited, with few exceptions, from constructing any new building or improvement over 250 square feet anywhere **west** of Civic Center Drive under the 1992 Open Space Ordinance (the 1992 Ordinance).

The Committee's proposed Measure A has far more significant ramifications for the future of all of the county's capital planning and construction on the Civic Center Campus than the sole issue of building a legally mandated EOF.

The 2007-2008 Marin County Civil Grand Jury decided to independently review the facts and circumstances of the controversy surrounding where to build the county's urgently needed EOF and the Committee's proposed Measure A. The Grand Jury believes Marin's voters deserve a straightforward discussion and analysis of the county's and the Committee's respective positions and actions to date.

METHODOLOGY

The Grand Jury interviewed over a dozen Marin County officials, as well as several of the most active participants in the Marin Civic Center Vision Committee (the Committee), and other Santa Venetia neighborhood residents both opposing and supporting the construction of a new Emergency Operations Facility (EOF) on the county's selected 7.26-acre site. Representatives of the Frank Lloyd Wright Civic Center Conservancy, the Marin Renaissance Partnership, and the county's Parks and Open Space Commission were also interviewed.

The **Bibliography** identifies the plethora of documents that the Grand Jury reviewed in substantial detail. The Grand Jury also scoured the county's website and other web pages describing the chronology of events and analytic studies, as well as current and future planning and proposed county actions regarding the EOF project.

Members of the Grand Jury toured the current Emergency Operations Center in the Civic Center building, viewed a 2005 DVD of the Emergency Operations Center in full emergency/disaster operational mode, and toured the five potential sites on the Civic Center Campus that were studied and evaluated by independent architectural and environmental planning firms. We also examined maps showing the topographic, flood plain and other seismic aspects of the five sites, and walked the Santa Venetia residential neighborhood adjacent to the county's selected 7.26-acre site.

DISCUSSION

Marin County's Emergency Operations Facility Mandate

California adopted the Essential Services Buildings Seismic Safety Act (the Essential Services Act) in 1986 (**Endnote 1**, page 17). Marin County has known since then that it must locate its Emergency Operations Center (EOC), Office of Emergency Services (OES) and certain other public safety and emergency dispatch functions within a building that meets the stringent construction and operational standards of the Essential Services Act. As early as 1989, following the Loma Prieta earthquake in Northern California, the county, with the assistance of independent engineering experts, discovered that it would be neither economically nor architecturally feasible to seismically retrofit and redesign the Frank Lloyd Wright Civic Center building, a National Historic Landmark (**Endnote 2**, page 17), to the standards of the Essential Services Act.

In 1995, the Marin County Civil Grand Jury recommended in a Report on Emergency Disaster Preparedness that the county consider relocating its EOC to a separate secure building. In 1996, the Grand Jury again recommended that "the County EOC and OES must be combined and moved to a seismically secure location."

Finally, in June 2002, the Grand Jury recommended that the county

actively pursue an effort to construct a permanent essential services building to house the EOC, dispatch center, OES, the DOC, communications operations, and other critical services. This building should meet current California building codes in a timeline of five years [that is, by mid-2007].

Apparently, the third time was the charm. In response to the June 2002 Grand Jury Report, the Board of Supervisors and the Marin County Sheriff finally agreed to implement the Grand Jury's recommendation for a new essential services EOF.

Professional analyses of the Civic Center Campus and potential EOF sites

Over the last five and a half years, the county commissioned numerous professional architectural, environmental planning and real estate development firms to exhaustively advise on countywide facilities space planning, design, development and construction, resulting in:

- *A County Facilities Master Plan* (Gensler Architects [Gensler], April 2002), which set forth a comprehensive strategy for upgrading and relieving overcrowding in the Civic Center building, including the construction of a new EOF on the Civic Center Campus that would be consistent with Frank Lloyd Wright's vision.
- *A Preliminary Site Analysis for a new EOF* (Heller/Manus Architects [Heller/Manus], March 2003), which identified and critiqued five potential locations on the Civic Center Campus for the new EOF. **The analysis recommended the 7.26-acre site, which was ultimately selected by the Board of Supervisors.**
- *The Civic Center Master Design Guidelines* (Royston Hanamoto Alley & Abey [RHAA], December 2005), which set forth design criteria to be maintained in all Civic Center Campus remodeling and new construction. These criteria are consistent with Frank Lloyd Wright's vision and the 1972-1990 Marin County Civic Center Master Plan authored by Wright's Taliesin architectural associates (the FLW Master Plan).
- *A Feasibility Study for the new EOF* (Beverly Prior Architects [BPA], January 2006), which **concluded that the 7.26-acre site is the best and most feasible location for a new EOF.** This followed geotechnical and hazardous materials assessments, an archaeological review, a civil engineering analysis, space and program analyses, and a review of community impacts.
- *A Real Estate Advisory Services Agreement* (Staubach Northern California, Inc., February 2008), which will develop a strategic financial plan and an overall project delivery plan for the EOF on the selected 7.26-acre site.

In addition, the Board of Supervisors approved a Marin Countywide Plan in 2007 that embodies certain open space principles on the Civic Center Campus.

The five potential EOF sites, and why four sites were eliminated

The five potential sites for the planned EOF on the Civic Center Campus that were reviewed and analyzed by county-commissioned independent professionals Gensler, Heller/Manus, RHAA and BPA are as follows:

- Site 1- Civic Center Parking "Pit" —78,000 sq. ft. (the Pit)
- Site 2- Temporary Dog Park—102,900 sq. ft. (the 7.26-acre site)
- Site 3- East Parking Lot and Armory—209,300 sq. ft. (the Armory)
- Site 4- Parking/Christmas Tree Lot—99,600 sq. ft. (the Christmas Tree Lot)
- Site 5- North San Pedro Road—66,800 sq. ft. (the Department of Health and Human Services [DHHS])

Sites 1 and 4 are located west of Civic Center Drive and subject to the 1992 Ordinance. Sites 2 and 3 are located east of Civic Center Drive and outside of the 1992 Ordinance. Site 5 is located south of the main Civic Center building and outside of the 1992 Ordinance. See **Appendix A** for a map of the five potential EOF sites.

Given the professionals' estimates that the county would require approximately 86,000 square feet to accommodate the programs and services relocating to the new EOF building and another 100,000 square feet for parking, Gensler identified possible future expansion sites, including the 7.26-acre site, and recommended new construction of a seismically safe essential services facility.

Possible use of any site was examined based on physical limitations (such as buildable area versus new and displaced parking), proximity to the main Civic Center building and sensitivity to the FLW Master Plan. Heller/Manus then eliminated three of the sites based on inadequate size, poor location, and high cost: Site 1 (the Pit), Site 4 (the Christmas Tree Lot) and Site 5 (the DHHS). Although already rejected, Site 4 (the Christmas Tree Lot) was additionally determined unavailable and infeasible due to the Marin Renaissance Partnership's intent to develop a permanent Farmers' Market there.

Heller/Manus thus narrowed the field of potential feasible sites for the EOF to two that warranted further study: Site 2 (the 7.26-acre site) and Site 3 (the Armory), noting that both sites were far better locations in terms of size, cost, efficiency, and proximity to the main Civic Center building. However, it was also determined that part of Site 3 (the Armory) would be unavailable to the county for future development until 2059 when the State of California's lease of the site expires. The state is unwilling to relinquish the lease earlier than 2059 unless the county can provide a satisfactory replacement site between San Francisco and Sonoma, and in no event sooner than the next eight years.

BPA then conducted an in-depth feasibility study of the remaining Site 2 and **unconditionally recommended the 7.26-acre site as the best and most feasible site on the Civic Center Campus for the new EOF.**

Board of Supervisors' selection of the 7.26-acre site

During these last five-plus years, public communication, deliberation and controversy abounded in Marin about where to build the new EOF. There were:

- Board of Supervisors meetings and county budget hearings.
- Public workshops, facilities planning workshops, and community meetings.
- A traffic study.
- Political statements, fights and fall-outs.
- Public and private communications and airings of differing views about the desirability and feasibility of the five potential EOF sites.
- Local newspaper and neighborhood newsletter articles, opinions and editorials.

During this time, there was abundant public consideration of specific community concerns about neighborhood impacts and the implications of a new EOF. These concerns included noise, traffic, safety, lighting, open space, residential market values, relocation of existing temporary facilities, and the desirability and feasibility of other Civic Center Campus locations.

The Board of Supervisors made its decision following these years of identifying, analyzing and admiring the four corners of the problem. This effort included countless hours of time, energy, quandary, analysis and thought by qualified and experienced independent professionals, community leaders, county staff and officials, and political pundits to determine the most feasible location for the EOF. On December 12, 2006, the Board unanimously affirmed county staff's recommendation to select the 7.26-acre site east of Civic Center Drive as the most feasible and proximate location for construction of the new EOF. The criteria the Board used for selection of the site included:

- Construction timeliness
- Safety
- Adequacy of site area (including size and geographic conditions)
- Adequacy in meeting emergency and public safety operations
- Projected cost

- Effect on the county's existing operations
- Community context (including neighborhood concerns)
- Design issues related to the Civic Center's status as a National Historic Landmark building

Of the five sites available for study and potential selection, the 7.26-acre site had ranked the highest based on the foregoing criteria, and was unanimously recommended by the county's professional advisors as the best and most feasible site for an EOF. In particular, independent professionals emphasized that this site best facilitates public safety and rescue operations in an emergency because of its proximity to the existing Civic Center. Rapid access to the Emergency Operations Center located within the EOF is critical for key safety and emergency personnel in the event of a disaster.

EOF construction costs are projected in a range from \$65 to \$80 million, with a useful building life of 40 to 50 years.

Relocation to McInnis Park of the petanque courts and the temporary dog park currently leased on the 7.26-acre site is anticipated to be approved by the Board of Supervisors in 2008. The county's Parks and Open Space Commission has recently revised and confirmed that the McInnis Master Plan will include space for a dog park and petanque courts.

The Opposition: The Marin Civic Center Vision Committee

During the years of professional study, analysis, hearings and debate, opponents of locating the EOF on the 7.26-acre site voiced their concerns publicly. Venues included various Board of Supervisors meetings, county budget hearings, public workshops, community meetings, and public and private written communications, newspaper letters and editorials. These Santa Venetia residents and other opponents came together under the umbrella of the Marin Civic Center Vision Committee (the Committee) after the December 2006 Board of Supervisors' site decision. The Committee made a written demand that the county halt the design and construction process for the new EOF and commission more feasibility studies, more site studies and more professional recommendations, with a focus of placing the EOF on one of the previously rejected sites west of Civic Center Drive.

The Committee also alleged in writing that the Board of Supervisors' decision in selecting the 7.26-acre site for the planned construction of the new EOF:

1. Sidestepped a public vote under the 1992 Open Space Ordinance.
2. Sidestepped historical precedent and land use decisions and policies regarding the Frank Lloyd Wright vision.

3. Locked the public out of the decision.
4. Caused the Board of Supervisors to “malfunction in its responsibilities.”
5. Will negatively impact the adjacent residential neighborhood.

Alleged “open space” issue

Despite the Committee’s written demands in 2007 to halt the EOF project, the Board of Supervisors has continued to pursue the planned construction of the EOF on the 7.26-acre site. Not to be deterred, the Committee deployed a political and legal mechanism in November 2007 to stop the county from ever constructing any building whatsoever on the 7.26-acre site without countywide voter approval. Cloaked in the banner of “Save our Parks and Open Space!” the Committee filed a notice of intent to qualify a proposed initiative Measure A for the November 2008 general election ballot. Measure A would amend and extend the existing 1992 Marin Civic Center Open Space Ordinance (1992 Ordinance) to require voter approval of any construction on the Civic Center Campus **east** of Civic Center Drive. The 1992 Ordinance currently requires countywide electoral approval if the county seeks to build over 250 square feet anywhere on the Civic Center Campus **west** of Civic Center Drive.

This Grand Jury investigated the Committee’s five allegations, as well as its subsequent contention that the proposed initiative Measure A is required to protect parks and open space on the east side of Civic Center Drive. We found them all to be without merit, as discussed in detail below.

The site decision did not sidestep a required public vote

The existing 1992 Ordinance already prevents the construction of any building in excess of 250 square feet on the estimated 58 acres of the Civic Center Campus west of Civic Center Drive without a countywide election approval process.

However, the 7.26-acre site selected for the EOF is not within the west side of the Civic Center Campus subject to the 1992 Ordinance. No existing legal or other requirement compels the county to acquire prior voter approval for the construction of the EOF or any other facility anywhere on the estimated 66 acres of the Civic Center Campus east of Civic Center Drive.

The site decision is consistent with the Frank Lloyd Wright vision and the FLW Master Plan

Very importantly, the FLW Master Plan developed by Frank Lloyd Wright’s Taliesen architectural associates (after Wright’s death in 1959) and approved in 1972 by the Board of Supervisors specifically recommends construction on the 7.26-acre site east of Civic Center Drive. It proposes a 600-space, two-story parking structure and General Services Building for office and related space, along with protections of adjoining recreational

areas, open space and parks, and future connectivity of the building and parking structure to the main Civic Center building. **Appendix B** shows text from the FLW Master Plan regarding placement of these structures on the 7.26-acre site.

Further, the FLW Master Plan is replete with illustrations and references to integration of open space and parklands adjoining and balanced with county buildings and facilities throughout the entire Civic Center Campus, both east and west of Civic Center Drive. The FLW Master Plan includes in part:

The Architects and Planners have been most attentive to the Open Space which links the entire project and which connects and enfolds the various elements... they have endeavored to make the open space areas contiguous and continuous...making an...environmental pattern into which the buildings fit and naturally merge... the spreading Open Space areas unite the buildings to one another...the future development of the plan and its landscaping augment and enhance this relationship.

The FLW Master Plan further states that the building of parking structures is part of the vision of maintaining a balance between open space and facilities. The plan includes: *“It is essential to preserve unspoiled open space continuity. Consequently the use of more parking structures and less surface parking is indicated and recommended.”*

Finally, in recommending a building and parking structure on the 7.26-acre site east of the Hall of Justice (the main Civic Center building), the FLW Master Plan details that:

This location is convenient to the Sheriff's entrance and other County auto users. This building and the related parking structure could be connected by underground tunnel or other pedestrian access to the Hall of Justice...Architects should also study and consider feasibility of future linking of this parking structure to Hall of Justice by escalators, tunnels, bridges, covered walkways or other means of transportation.

Accordingly, building the EOF on the 7.26-acre site is consistent with and contemplated by the FLW Master Plan and vision. Any effort or argument to prevent or obstruct construction on the 7.26-acre site in the name of Frank Lloyd Wright's vision for “preserving recreational areas, parks and open space,” contradicts and misrepresents the FLW Master Plan and vision. The Frank Lloyd Wright Civic Center Conservancy, as the steward of the Frank Lloyd Wright vision for the Civic Center, supports the county's plan to construct the EOF on the 7.26-acre site.

Proposed Measure A is unnecessary, costly and disruptive

The Committee's proposed Measure A is simply unnecessary for "open space" protection. The express policies, plans and recommendations contained in the very detailed and visionary FLW Master Plan specify and contemplate that buildings and parking structures are to be designed and located throughout the Civic Center Campus, east and west, in balance and in conjunction with protections of adjoining recreational areas, parklands and open space. As noted above, **the FLW Master Plan is specific: it includes a building and parking structure precisely on the 7.26-acre site selected for the new EOF.**

There are staggering cost and other implications of requiring prior countywide voter approval before county needs for additional or improved facilities can be met *anywhere* east of Civic Center Drive. In plain language, the Committee's proposed initiative Measure A, if qualified for the ballot and passed by the Marin electorate, will bring Civic Center Campus construction plans and projects to a screeching halt, until there is voter approval. All of the county's construction plans for the east side of the Civic Center Campus, including upgrading of even the most mundane amenities such as public toilet areas larger than 250 square feet, will be subjected to a time-consuming, expensive countywide election process.

In more disturbing terms, if the Committee's proposed initiative Measure A passes, the authority of the elected Board of Supervisors to continue implementation of Frank Lloyd Wright's vision and the FLW Master Plan will be gutted. Capital planning and construction contemplated on the east side of the Civic Center Campus will cease and require voter review and approval despite the FLW vision and the FLW Master Plan and their specific integration of buildings with open space protections.

It bears repeating that the FLW Master Plan contemplates and authorizes construction of buildings interspersed with adjoining open space and parklands throughout the entire Civic Center Campus. It specifically recommends construction on the 7.26-acre site. If Measure A passes, the elected Supervisors' vestments of authority, deliberation and decision-making on behalf of their constituents regarding the use, disposition and placement of capital assets in accordance with the FLW vision and principles of the FLW Master Plan will be replaced. The result would make the FLW Master Plan redundant and supplant it with an unnecessary and unwieldy capital improvement planning and development process determined by Marin's voters, most of whom are understandably not well-versed in the detailed tenets and requirements of the FLW Master Plan.

All of the foregoing would occur in an environment where construction and labor costs continue to rise. Inflation, personnel expenses, unfunded liabilities and other operating expenses are taking their toll on the county's coffers. Significant portions of the county's already sparse operating funds would need to be reserved to accommodate multiple elections. Numerous special elections could be required, and at no small cost: Marin's Registrar of Voters estimates that each special election costs Marin taxpayers approximately \$700,000. Although the Committee states that voter approval would only

be sought in a general election, a special election may be triggered by timing, such as funding deadlines under state election laws.

If the Committee's proposed Measure A qualifies for an election ballot, the Board of Supervisors has the authority to take appropriate action necessary to ensure the construction of the EOF on the 7.26-acre site to fulfill critical public safety needs. Such action could include development and placement on the same election ballot of a competing initiative to defeat Measure A. This would ensure uninterrupted implementation of the FLW Master Plan and defeat the costly and disruptive burdens that Measure A would heap on the county.

The site-selection process was proper

As noted earlier, the Grand Jury recommended in three prior reports that Marin County construct a seismically safe building, separate and apart from the current Civic Center building, to house its Emergency Operations Center, Office of Emergency Services, emergency dispatch and other public safety functions.

Appendix C includes excerpts and explanatory notes from the Historical Timeline extracted from the Marin County website, summarizing some of the extensive public processes and decisions disclosed and pursued by the county from 1989 to 2008 regarding the new EOF.

Appendix D is the Grand Jury's more detailed description of the public processes followed and decisions taken by the Board of Supervisors in the five years between 2002 and 2006 that led to the Board's selection of the 7.26-acre site as the most feasible location for the new EOF building.

Accordingly, after an extensive review of the public record, the Grand Jury finds that the Board of Supervisors' public processes, disclosures, decisions and due diligence in selecting the 7.26-acre site for construction of the EOF were proper and consistent with the legal authority and responsibilities vested in the Board.

The Grand Jury confirms that the Board of Supervisors:

- Acted within the legal requirements of open, agendaized and noticed public meetings, and did not attempt to hide the information or process from the public.
- Exercised proper care and due diligence in retaining qualified professional firms and in subsequently relying on such firms' expertise to implement their recommendations.
- Took action consistent with the FLW vision, the FLW Master Plan and the Marin Countywide Plan's protections of open space.
- Otherwise acted within the proper scope of its legal authority and responsibilities.

Other concerns are without merit

Beginning in January 2007, community opinions and debates about the EOF and the selected 7.26-acre site became very intense. Numerous news articles, letters and opinion pieces appeared in the *Marin Independent Journal* (see **Bibliography**). The Grand Jury believes that additional concerns generated by this dialogue are also without merit, as noted below.

Neighborhood impacts. The arguments of some that the EOF will negatively impact the Santa Venetia neighborhood is a matter of subjective opinion. However, the county has repeatedly informed the community that the EOF will be located and designed in accordance with the requirements of the RHAA Master Design Guidelines, which ensure conformance with FLW design principles. The goal is to reduce visual effects while relating any new structure to historical context of the FLW main Civic Center building, and the FLW Master Plan. In addition, the selected site is lower than the main campus and will allow the EOF to be built significantly lower than the main Civic Center building. The county has also reassured the Santa Venetia neighbors that it will mitigate other potential neighborhood impacts such as noise, safety, lighting and traffic through the design and placement of the EOF building on the 7.26-acre site.

Geographic conditions. In recent months, attention began to focus on whether the 7.26-acre site and the other sites considered but rejected for the EOF were all within flood plains, and vulnerable to high liquefaction (caused by water-saturated sandy and silty ground) and seismic shaking. The Grand Jury reviewed maps and data from such sources as the Federal Emergency Management Agency (FEMA) and the U.S. Geological Survey. These maps and data show that the selected 7.26-acre site is not in a flood plain and is subject to lesser liquefaction or seismic shaking hazards than the other four rejected sites. This reinforces the propriety of the Board's decision to select the 7.26-acre site for the EOF.

Cost Analyses. Committee representatives charged that the county had failed to provide comparative cost analyses of the five potential sites. Appropriately, the county has refrained from the expense of commissioning further comparative cost analyses of the four sites that had been determined infeasible and eliminated from consideration by the experts for the significant and valid reasons previously discussed.

Further consideration of other sites. A concern was raised that the present location of the Public Works maintenance yard on the west side of Civic Center Drive hasn't been considered. However, that site has been rejected given its inadequate size and exposure to the same geographic concerns as the rejected Site 4 (the Christmas Tree Lot). In addition, underground fuel storage tanks at the Public Works maintenance yard make development of an EOF on that site dangerously inappropriate and cost-prohibitive. Another concern was that the current site of the Government Services Building on the west side of Civic Center Drive hasn't been considered. However, the California court system has designated this as the preferred site for construction of a new court building.

Marin's broad public safety mandate outweighs narrow private interests

The Grand Jury finds that the broad, countywide public safety mandate for an Emergency Operations Facility far outweighs the narrow private interests of the adjacent homeowners. The FLW Master Plan's long-term disclosed support for public use of the 7.26-acre site for a county building and two-story parking structure has now crystallized into planned construction of the much needed and legally mandated EOF and related parking. The EOF will significantly augment critical protections and safety needs of Marin County citizens. To surrender this broad public safety mandate to the demands of a small group of private homeowners would create an unjust outcome and contradict and diminish the Frank Lloyd Wright vision and FLW Master Plan.

Adjacent homeowners will also benefit from the enhanced public safety, security and protection that a new EOF will secure for all of the county's residents.

FINDINGS

The Grand Jury finds that:

- F1.** California's stricter "essential services" standards for seismic safety of buildings housing public safety functions mandate construction of a new Emergency Operations Facility in Marin County to house its Emergency Operations Center, Office of Emergency Services, Sheriff's Department, and several other public safety and emergency dispatch functions.
- F2.** The Marin County Civil Grand Jury recommended in three prior reports that Marin County construct a permanent essential services building to house the county's public safety services and functions.
- F3.** The Board of Supervisors appropriately retained qualified, professional experts to conduct due diligence reviews of five potential sites and to advise and recommend the development of a Civic Center Master Facilities Plan, Civic Center Master Design Guidelines and Site Feasibility Studies to determine how and where to build the mandated Emergency Operations Facility on the Civic Center Campus.
- F4.** The Board of Supervisors appropriately relied on the professional expertise of qualified consultants when it rejected four potential sites and selected the 7.26-acre site east of Civic Center Drive for construction of the new Emergency Operations Facility.
- F5.** The public discussions, disclosures and actions by the Board of Supervisors at public meetings fully establish that the Board's selection of the 7.26-acre site for construction of the Emergency Operations Facility: (a) did not sidestep a public vote under the 1992 Open Space Ordinance, (b) did not sidestep historical precedent and land use policies of

the Frank Lloyd Wright vision, (c) did not lock the public out of the site decision, (d) did not result in a malfunction of the Board's responsibilities, and (e) will not unduly impact the neighborhood adjacent to the 7.26-acre site.

F6. The Frank Lloyd Wright 1972-1990 Marin County Civic Center Master Plan (the FLW Master Plan) contemplates construction and integration of buildings with protected, adjoining open space and parklands throughout the Civic Center Campus.

F7. The FLW Master Plan specifically recommends the construction of a building and a two-story parking structure on the 7.26-acre site east of Civic Center Drive selected by the Board of Supervisors for the new Emergency Operations Facility. Construction of the EOF on the selected site is consistent with the FLW Master Plan and vision, and allegations to the contrary by the Marin County Civic Center Vision Committee (the Committee) are unfounded.

F8. The Committee's proposed Measure A is unnecessary, costly and disruptive. If successful, the efforts of the Committee to acquire voter approval of Measure A to extend prohibitions of the 1992 Open Space Ordinance to the east side of Civic Center Drive in order to stop construction of the new Emergency Operations Facility on the selected 7.26-acre site will delay and severely hinder fulfillment of an urgent community public safety mandate.

F9. The claim of the Committee that its proposed Measure A is required to protect or "save recreational areas, open space and parks" is inconsistent with the plans, policies and protections of recreational areas, space and parklands in the FLW Master Plan.

F10. The broad, countywide public safety mandate for the EOF on the selected 7.26-acre site far outweighs the narrow private interests of the adjacent homeowners who will also benefit from the enhanced public safety, security and protection that a new EOF will secure for all of the county's residents.

F11. The Board of Supervisors has the authority to take appropriate action necessary to ensure the construction of the EOF on the 7.26-acre site to fulfill critical public safety needs. Such action could include development and placement on the same election ballot of a competing initiative to defeat Measure A. This would ensure uninterrupted implementation of the FLW Master Plan and defeat the costly and disruptive burdens that Measure A would heap on the county.

RECOMMENDATIONS

The Grand Jury recommends that:

R1. The Board of Supervisors and Marin County staff and experts expedite the planning, development and construction of the mandated Emergency Operations Facility on the selected 7.26-acre site east of Civic Center Drive as one of the county's highest priorities for community public safety.

R2. The Board of Supervisors and Marin County staff and experts continue to solicit and consider public and neighborhood inputs on the design and configuration of the Emergency Operations Facility to be built on the 7.26-acre site.

R3. The Board of Supervisors require the design and construction of the Emergency Operations Facility on the 7.26-acre site be consistent with Civic Center Master Design Guidelines and the policies and recommendations of the Frank Lloyd Wright Master Plan.

R4. If the Marin Civic Center Vision Committee's proposed initiative Measure A qualifies for an election ballot, the Board of Supervisors take appropriate action necessary to ensure the construction of the EOF on the 7.26-acre site to fulfill critical public safety needs. Such action could include development and placement on the same election ballot of a competing initiative to defeat Measure A.

REQUEST FOR RESPONSES

Pursuant to California Penal Code Section 933.05, the Grand Jury requests responses from the following governing body:

The Marin County Board of Supervisors: **F1** through **F11**; **R1** through **R4**

The governing body indicated above should be aware that the comment or response of the governing body must be conducted in accordance with Penal Code Section 933 (c) and subject to the notice, agenda and open meeting requirements of the Ralph M. Brown Act.

California Penal Code Section 933 (c) states that "...the governing body of the public agency shall comment to the presiding judge on the findings and recommendations pertaining to matters under the control of the governing body." Further, the Ralph M. Brown Act requires that any action of a public entity governing board occur only at a noticed and agendized public meeting.

The Grand Jury invites responses from:

- The Frank Lloyd Wright Civic Center Conservancy
- The Marin Civic Center Vision Committee
- The Marin County Parks and Open Space Commission
- The Marin Center Renaissance Partnership

ENDNOTES

Endnote 1. California's Essential Services Buildings Seismic Safety Act of 1986 State (California Health and Safety Code Sections 16000 et seq.) defines an "essential services building" as any building (or portion of building), including buildings designed and constructed for public agencies, that are used, or designed to be used, as a fire station, police station, emergency operations center, California Highway Patrol office, sheriff's office, or emergency communication dispatch center. The California Legislature's intent is that essential services buildings shall be capable of providing essential services to the public after a disaster, and shall be designed and constructed to minimize fire hazards and to resist, insofar as practical, the forces generated by earthquakes, gravity, and winds.

Endnote 2. The Civic Center Building is a National Historic Landmark. While it has been renovated to prevent loss of lives in the building in an earthquake, it is not also designed to remain functioning after an earthquake, as is required for an EOF by the Essential Services Act. Further retrofitting the Civic Center building would entail the addition of structural members (beams, columns, brace frames, etc.) and technology (power backup units, modern equipment, etc.) that not only take up useable room, but compromise the architectural integrity of the Frank Lloyd Wright building design. The configuration and space constraints of the existing historic building limit the amount of modernization that can occur. Ultimately, this limitation hinders the effectiveness of disaster relief efforts. In addition, retrofits of this nature tend to cost more per square foot than constructing a new building, and take longer to construct. The county would also incur additional costs of implementing a temporary EOF if retrofitting were to be performed.

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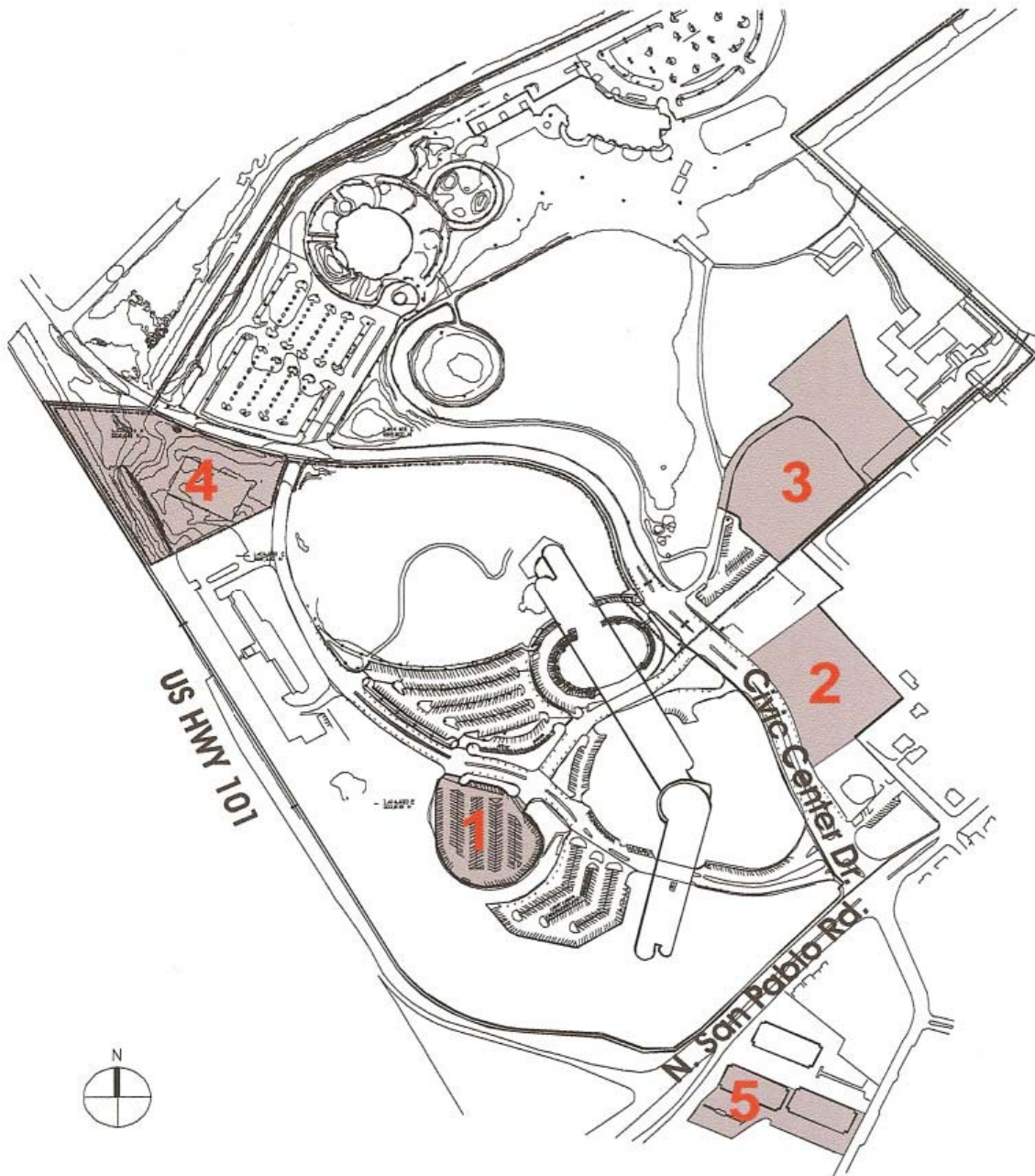
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**APPENDICES
APPENDIX A**



LEGEND

- Site 1 – Civic Center Parking “Pit”**
- Site 2 – Temporary Dog Park**
- Site 3 – East Parking Lot & Armory**
- Site 4 – Parking/Christmas Tree Lot**
- Site 5 – North San Pedro Road**

APPENDIX B:

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- 5. General Services buildings, Parks & Grounds, related services and parking are to be relocated and incorporated in parking structure previously shown east of Hall of Justice. This structure will be indicated on two levels as previously shown but as now extending to north-east boundary of site, along which boundary (running north-west and south-east) a one- or two-story (above-ground) structure will be indicated to provide for office and related building space. This building might conceivably connect with Community Center-Art Museum complex by way of overpass or raised story over entrance to crescent-shaped parking driveway. Architects should also study and consider feasibility of future linking of this parking structure to Hall of Justice by escalators, tunnels, bridges, covered walkways or other means of transportation. The area west of the Auditorium previously indicated as for General Services and located across the drive from the present Auditorium parking area is to be considered as a very highly planted and largely tree-covered parking area to augment the Auditorium parking area and the Natural History Museum parking. This area will be either paved (or gravelled), but in addition to having trees between rows of planting will also be planned to have large and small trees throughout so as to form a shaded foliage-covered area.

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APPENDIX C: 1989-2008 Historical Timeline of Public Discussion, Disclosure and Actions in Authorizing and Siting Marin County's Proposed Emergency Operations Facility (from Marin County Website: www.co.marin.ca.us/depts/Main/EOC)

1989: Dialog began to enhance emergency preparedness after 1989 Loma Prieta Earthquake

(December) 1996: Civil Grand Jury issues report calling for new, seismically appropriate building for emergency services

April 7, 1998: BOS approves lease for interim dog park. Supervisors specifically say site will be used for future office buildings and dog park will be displaced

April 9, 1998: Marin Independent Journal article documenting County lease for dog park is temporary and will be site for future construction

June 19, 2002: Civil Grand Jury issues report "Emergency Management and Operations in Marin County" and again calls for a new, seismically appropriate building for emergency services

July 16, 2002: BOS accepts Gensler Architects Civic Center (Facilities) Master Plan showing possible future expansion sites (including the 7.26-acre site) and calls for new construction of a seismically safe facility to accommodate public safety functions

May 1, 2003: Heller Manus Architects (HMA) produces a site analysis report on advantages and disadvantages of each possible site construction and makes recommendation of public safety building (7.26-acre) site on east side of campus (concluding that 3 of the 5 sites are inappropriate for the EOF due to inadequate size, poor location, prohibitive cost and disruption to current County activities)

May 13, 2003: BOS directs staff to develop Civic Center Master Design Guidelines and Emergency Operations Center site for feasibility study

August 10, 2004: BOS authorizes (architectural and environmental planning firm) Royston Hanamoto Alley & Abey (RHAA) to start Master Design Guidelines (which provide a standard for future development and the criteria necessary to meet the Secretary of Interior Standards for Treatment of Historic Properties, to comply with the 1992 Open Space Ordinance, and to build on the design principles set out by Frank Lloyd Wright)

December 2, 2004: Community Meeting on (RHAA) Master Design Guidelines including (seven) future development sites (including the 7.26-acre site)

January 4, 2005: BOS authorizes Beverly Prior Architects (BPA) to perform a feasibility study of proposed (7.26-acre) site

February 16, 2005: Open House to discuss (RHAA) Marin Civic Center Master Design Guidelines. Emergency Operations Facility was discussed as a future project

November 1, 2005: Community meeting with Beverly Prior Architects (BPA) on feasibility study; Community concerns raised about specific design and operation issues

December 20, 2005: BOS approves final (RHAA Civic Center) Master Design Guidelines

January 31, 2006: Beverly Prior Architects (BPA) presents feasibility study to BOS workshop

February 1, 2006: Independent Journal article informing public of public safety building issues and impending BOS site selection decision

December 12, 2006: BOS accepts proposed (7.26-acre) site on east side of Civic Center Campus for next steps in the development process

January 22, 2007: Opinion Editorial in Marin Independent Journal by Supervisor Kinsey in support of this (EOF) project (on the 7.26-acre site)

February 15, 2007: Opinion Article in Marin Independent Journal by Sheriff Robert Doyle in support of this (EOF) project (on the 7.26-acre site)

July 21, 2007: Public meeting at Jewish Community Center to discuss addition of a new dog park at the old Gallinas School

February 12, 2008: BOS authorizes the Staubach Company to develop a strategic financial plan and an overall project deliver plan for this (EOF) project (on the 7.26-acre site)

APPENDIX D: Summary of Board of Supervisors' Actions and Decisions in 2002-2006 Supporting Construction of the Emergency Operations Facility on the 7.26-Acre Site

In 2002 through 2006, at duly and properly noticed and agendized public meetings where public input was heard and considered, the Board of Supervisors took the following actions:

- Commissioned architectural firm Gensler to develop a County of Marin Facilities Master Plan (the Facilities Plan) for all county facilities, sponsored a public workshop about the Facilities Plan in April, 2002, accepted the Facilities Plan on July 16, 2002, and ordered that (i) the Facilities Plan be made available at all public Marin County libraries and on the internet, and (ii) staff develop a summary memo, to be circulated to the public and the Board, identifying a process for public outreach on the Facilities Plan. The Facilities Plan called for new construction on the Civic Center Campus to accommodate public safety functions that require a higher level of seismic safety (California's essential services standard).

- Retained qualified independent architecture and environmental/planning firms to (i) evaluate several possible locations for the new EOF on the Civic Center Campus, (ii) develop Civic Center Master Design Guidelines and (iii) determine the most feasible probable location for the new EOF.

(a) In 2003, Heller Manus Architects (HMA) analyzed the feasibility of a new EOF on five potential Civic Center sites and eliminated three based on their limitation in size, poor location, and cost: Site 1 (the Pit), Site 4 (the Christmas Tree Lot), even after considering combining the latter with the SMART Site's 77,000 square feet, and Site 5 (the DHHS).

(b) In 2004 and 2005, Royston Hanamoto Alley & Abey (RHAA) developed Civic Center Master Design Guidelines consistent with the 1992 Open Space Ordinance, the Frank Lloyd Wright vision, the FLW Master Plan and federal Historic Properties requirements.

(c) In 2005, Beverly Prior Architects (BPA) conducted an in-depth study of Site 2 (the 7.26-acre site) and unconditionally recommended it as the best and most feasible and proximate site on the Civic Center Campus for the new EOF, based on numerous factors and comprehensive criteria.

(d) In budget hearings and public workshops, the BPA study was disclosed and discussed in depth, including the pros and cons of the various sites analyzed in the study and potential impacts to the community, and the

concerns of members of the public were presented. County staff was directed to look into issues of noise, safety, lighting and traffic, dislocation of the existing uses, alternative sites and potential community impacts, and develop a project timeline for the development process and report back to the Board of Supervisors.

(e) Intermittently through 2006, County staff and members of the Board of Supervisors engaged in further educational efforts with the community to summarize the necessity and appropriateness of the 7.26-acre site for the new EOF (see **Appendix C**).

- Selected in December 2006 the 7.26-acre site for development of the EOF as the most feasible and proximate site, after further staff review and discussions and reviews of the HMA, RHAA and BPA site and design and feasibility studies at public budget hearings and meetings. The site's close proximity to the main building is critical since approximately 70+ emergency workers from the main Civic Center building will immediately go to the EOC to conduct emergency services during a disaster once the EOF is completed.

(a) At the December 2006 Board of Supervisors meeting, the concerns and opposition of the Marin Civic Center Vision Committee, Santa Venetia Neighborhood Association, and Field of Dogs and Petanque Court users were again expressed and heard.

Given this public input, the Board further directed county staff, lead by Supervisor Adams, to establish a community and neighborhood process to address quality-of-life issues during the building and site design process, and to continue to work with the community to explore alternative locations for the petanque court and temporary dog park activities to be relocated from the 7.26-acre site.